

Weare Conservation Commission
Minutes of June 6, 2006
****Draft****

Members present: Andrea Alderman, John Ciampi, Tom Carr, Andy Fulton, George Malette, Pat Myers.
Absent: Paul Kosciuzek, Steve Najjar.
Guests: Tom Sauser, Jeff Hudson of SHB and Jim Edwards of Meridian Land Services.
Shawn Hawkes abutter to SHB property.
Micheal Melcher
Mike Boyko from WOSC
Art Siciliano

Chair Andy Fulton called the meeting to order at 7:05 PM. Andy suggested holding Minutes until later in the meeting for the convenience of our guests.

1. SHB - subdivision off Route 114 on old apple orchard

Jim Edwards reported that the Risk Characterization on the orchard soil contamination was not yet available. He thought it might take another 3 weeks to complete. He said tonight they would like to present and discuss the revised plan he referred to as a tweaking of Concept #2. The features they believe the town is looking for in this plan are: **1.** It is a cluster subdivision. **2.** The Open Space area has increased in size. **3.** The road, Cortland Avenue, has a center cul-de-sac. Jim pointed out that this plan shows both phases of the proposed development. He then said that there is an abutter to the north with a concern to express and he introduced Shawn Hawkes of General Knox Road.

Mr. Hawkes explained that he had favored the original SHB subdivision concept which brought the road through the development to his property. He explained that the cluster with a cul-de-sac favored by the WCC prevents him from accessing his property (Map Lot). He said he came to offer an idea that might be beneficial to all parties. Mr. Hawkes stated that he would offer SHB a lot of 6 acres+/- taken from the corner of his property that abuts the SHB land, in exchange for SHB bringing the road the additional 200 feet to his property. In addition, he would agree to sell a conservation easement to the town on the remaining acres, minus 11 acres +/- on the hill which he would retain for his children. The conservation easement area would be approximately 90 acres ($107 - 6 - 11 = 90$). Mr. Hawkes showed a map of his land and surrounding properties which include his grandfather Rod Wilson's land (map 411 lot 157), the town-owned Wood Family Forest, and the Mt William, Inc property (map lot). He explained that he bought this parcel believing that he would have good access to it through a subdivision going in on Brown Ridge Rd. The subdivision later fell through and the land was sold as one large parcel cutting off his access to Brown Ridge Rd. Mr. Hawkes does have a 10 ft wide strip running along the boundary of Rod Wilson's property that connects this 107 acre parcel with a second parcel where his house is located which has a driveway onto route 114. But the strip wouldn't be enough to remove timber if he wished to log nor meet the frontage requirement if he wished a building lot on the property, thus his interest in access from the SHB property. Mr. Hawkes stated he had spoken earlier with Steve Najjar, chair of the Weare Open Space Committee, and believes him to be interested in pursuing a possible conservation arrangement with the town.

Tom Sauser then summarized saying that SHB sees 2 possibilities to move forward:

Option #1 – to shift the cluster lots a bit to create space for a 50 ft wide strip of land leading from the cul-de-sac to Mr. Hawkes land and to deed this strip to Shawn Hawkes. This 50 foot width would provide the required frontage for a single 10 acre (minimum) house lot on his back land.

Option #2 – Extend Cortland Avenue 200 feet to Mr. Hawkes' land and end it in a hammerhead at the 6 acre lot Mr. Hawkes would be deeding to SHB. This approach would require a standard subdivision rather than a cluster.

Andrea asked what the impact of either of these options would be on the cluster concept. Mr. Sauser and Mr. Edwards explained that extending Cortland Avenue through to the Hawke property would mean they were back to the traditional subdivision layout that was their concept#1. If they simply conveyed a 50 ft

wide strip to Mr. Hawke they could stay with the cluster by just shifting a few of the lots. They stated that there would still be enough open space to satisfy the requirement. Andrea recalled that there were 2 reasons for the WCC's strong interest in a cluster subdivision here. One reason was the habitat value of the cluster's open space area and the other reason was to protect the key conservation area of Melvin Valley.

Andy expressed his concern about agreeing to a particular configuration without having the crucial information from the Risk Characterization. Tom Sauser responded that SHB was intending to go to the Planning Board with this plan and intending to move from preliminary to final planning stage. He said this would not preclude any party from taking action at a later date in response to any result of the Risk Characterization when it becomes available. He said they came to tonight's meeting hoping to gain the WCC's clear support at the Planning Board for the cluster layout. If the Planning Board agrees they could then begin work on the road and utilities. Andy then asked SHB if the idea of extending the road to Mr. Hawkes' land in exchange for an additional lot was a way they would want to go. SHB indicated that it would be very complicated at this point in their plans to go that direction. The 50 foot strip option was more workable for them.

Andy summarized that both the WCC and SHB remain in favor of the cluster concept and both see no reason that a 50 foot wide parcel conveyed to Mr. Hawkes would have any adverse impact on the cluster concept. Mr. Hawke would then have frontage onto Cortland Avenue allowing him to move ahead with his 11 acre homestead parcel out of the 107 acres. Mr. Hawkes and the Town (through the WOSC) would then also move forward with an appraisal on the proposed conservation easement area. There was a brief discussion of the eventual disposition of the cluster open space which Andy said would need to be debated further at another meeting. Andy also asked SHB to add a designation onto the plan to identify the open space area.

SHB reiterated that they were most interested in making sure the WCC would make its position clear to the Planning Board before the hearing. The WCC chose to provide the PB with the following recommendations which George listed as:

- #1 the WCC recommends a cluster subdivision for this development.
- #2 the issue of the Risk Characterization isn't fully resolved with the WCC.
- #3 the WCC recommends the issue of access for Mr. Hawkes' property be resolved with a 50 ft wide conveyance between Cortland Avenue and lot 145, the 50 ft width on Cortland providing the required frontage for an 11 acre building lot on backland. This recommendation comes with the understanding that Mr. Hawkes and the Weare Open Space Committee will begin working toward a conservation easement on approximately 96 acres of lot 145.

Andy closed this hearing at 7:51 PM.

Tom Carr joined the commission at this point. He had not participated in the previous hearing.

2. Michael Melcher – LLA on Buckley Rd (Map 404 lot 77 and Map 407 lot 39)

Mr. Melcher reminded the WCC that this plan had come up in January and it was noticed that there were some wetlands that were not delineated and not shown on the plan. The work was done by Carl Shabloom who has since gone back and rectified the omission. Alden Bouchman, working for _____ Palmer, had put his wetlands stamp on the original work and that too has been corrected with Shabloom's stamp now in place.

Andy asked the purpose of the lot line adjustment. Mr. Melcher explained that lot 77 had been an 11 acre lot because it was on a class 5 dirt road. Buckley Road is now paved allowing smaller lots. After taking wetlands into account, it can now be a 7 acre building lot. The Melchers wish to move the lot line to add the extra area to lot 39 (currently 54 acres, undeveloped) which they also own.

Andy and Tom asked some questions pertaining to the large and potentially ecologically valuable marsh that is on this property, and the property's location in relation to the All Season's Campground. Tom explained that he is trying to discover why the campground shows up as conservation land on certain maps.

Andy advised Mr. Melcher that if he does consider developing lot 39 in the future to please come to the WCC early on for a smoother process. He asked if the Melcher's had received a copy of the letter from the Open Space Committee sent in 2004 to 50+ acre owners asking if they would consider discussing land conservation options. He indicated that they had not gotten one. **(WOSC needs to send him a letter!)**

Mr. Melcher explained that the plan he was working from was the original one done in 1985 and that was the reason for the curving wetlands delineations, that being the acceptable method then. He also noted that the 1985 plan called for 120 ft setback for buildings and 150 ft setback for the septic from the marsh. Those restrictions turn out to match pretty closely with current regulations he said.

In response to questions, Mr. Melcher said there is 150 feet of frontage on lot 39. He mentioned that he has an approved septic for lot 77. Lot 77 was and is a building lot and he will be putting it back on the market. He has no plans for lot 39 at this time. Andy stated that if development of lot 39 was pursued the WCC would be interested in having a wildlife assessment done because the marsh may be a very special resource. Tom suggested that since it was obviously the intention of the 1985 Planning Board to protect the marsh, it would be a good idea to have the wetlands delineation on the marsh itself re-done to be sure the very poorly drained soils areas are correctly located. Mr. Melcher said that they had in fact done that on the building side of the marsh. Tom asked if that had changed the septic location. Mr. Melcher said he didn't think it had. The discussion caused everyone to look at the plan again and Tom then noticed that the 75 ft setback of septic to wetlands called for in Weare's Zoning Ordinance had been missed in one place on the plan. He pointed out that the Building Office had missed it too and Chip Meany had signed the approval. There appeared to be enough room to move the septic to an acceptable distance. Mr. Melcher said he was glad to catch it now rather than later. Tom looked up the reference in the Zoning Ordinances and indicated he would inform Chip Meany of the issue.

Finally Andy asked Mr. Melcher about the Forestry Notification received by the WCC. Mr. Melcher said they have hired a forester and will be logging on 407-39. End of hearing 8:19 PM.

At this time Andrea asked for a change from the order on the agenda to allow Mike Boyko to report for the Open Space Committee.

3. Mike Boyko – WOSC – report on Oliphant project

Mike reviewed that the WOSC had been working with Tom Oliphant for some time in an effort to protect a portion (79- 15 = 64 acre) of his property on Tiffany Hill Rd. Mike and Andrea had just met with Tom Oliphant on May 24th to determine if a purchase of the property was possible. The meeting revealed that a gap exists between Mr. Oliphant's price and an amount the WOSC could consider. Mike then spoke with Henry Tiffany, an abutter who has indicated the possibility of supporting the project in some way. Mr. Tiffany had suggested earlier that funds might be raised from concerned neighbors and relatives. Mike wanted to determine if Mr. Tiffany was willing to approach these people. Meanwhile Mr. Oliphant had contacted Mike again on Friday 6-2-06 indicating he was eager to move forward and wanted to begin some of the paperwork and have a survey done. Mike told him he would bring these ideas to the WCC meeting tonight.

After discussion, WCC members in general felt it was too early to begin any paperwork because there was a considerable gap and no way found yet to cover it. There was also general discomfort with Mr. Oliphant unilaterally drawing up the dividing lines on the property. Mike went on to say that Mr. Tiffany had called him just before the meeting saying he was not sure he was the best one to approach folks and had mentioned Gordon Russell as being better at the task. Paul Doscher's name came up in discussion as another person

who could be successful at approaching potential donors. Mike thought he would talk to Margaret Watkins to see what her suggestion might be. George asked about the possibility of going to next year's Town Meeting with the purchase but Andrea said she believed Mr. Oliphant did not want to wait. As to the survey, WCC members thought Mr. Oliphant needs to provide some sort of map at this point but must already have a basic plan drawn up from his 17 lot subdivision conceptual that he took to the Planning Board last year.

Mike said we have 45 days or so left of the 60 day period agreed upon in April to reach an agreement.

Andrea suggested that Mr. Oliphant should bring his map or plan to the next WOSC meeting on June 27th and that we talk to Margaret Watkins and Gordon Russell prior to that meeting. This discussion ended at 8:35 PM.

Pat mentioned that the By-Laws say the WCC chair must appoint new members to the Open Space Committee and that there were two folks who volunteered to be alternates the May 23rd meeting.

4. Art Siciliano – Open Space Conservation Easement

Mr. Siciliano was present to discuss the draft CE for the open space portion of his cluster subdivision on his property on Route 77 in North Weare village. George pointed out that it is based on the so called "Model" which is for an Open Space Warranty Deed but this is an Open Space Conservation Easement so some changes were made. It was noted that Mr. Siciliano will be retaining ownership of the Open Space lot.

Changes to be made were: **a)** correct the section numbers. Section number 1.3 occurs twice, the second one should be changed to 1.4 and the sections following then need to be adjusted accordingly. After discussion we agreed that 1.10 is correct for outline formatting. **b)** In sections currently labeled 1.7 and 1.8 strike *The Grantee shall not permit or allow* and replace with *There shall be no...*

Discussion began about whether Mr. Siciliano intended to give up right the right to camp on his land as stated in section #1. It was decided to add the phrase *...without the prior written consent of the Grantee.* to the end of the section currently labeled 1.8. It was agreed that we did not want this wording in section 1.7 which refers to motorized vehicles.

John asked for clarification on section 1.9 suggesting it might be deleted because it is vague. Tom recommended keeping it since this was to be a cluster subdivision with small lots. The section indicated that trails may be built but that the intention is to protect the lot owners from intrusion into their living space by a trail too close or too open. All agreed to leave 1.9 as is. George pointed out that attorney Bill Drescher has not yet reviewed the document. Discussion ended at 9:00 PM.

5. Review of Minutes

John Ciampi will make the changes to the drafts of the minutes reviewed at this meeting. It was noted that the law does not require the specific changes be spelled out in the current minutes.

March 8, 2006 - reviewed, changes suggested, George moved to accept the minutes as revised. Tom 2nd. All voted to accept.

April 11, 2006 – reviewed, changes suggested, John moved to accept the revised minutes. Pat 2nd. Voting to accept were Andy, Andrea, John, Pat. Tom and George abstained.

May 10, 2006 – reviewed, no changes made. George made motion to accept as written. Andrea 2nd. Voting in favor were Andy, Andrea, John, George. Tom and Pat abstained.

May 23, 2006 – reviewed, changes made, George moved to accept as revised. John 2nd. All in favor except Tom who abstained.

6. Duck Pond Subdivision – Open Space Warrenty Deed

WCC members reviewed the draft and found that NBAC had reverted back to the original Brookshire wording rather than using the revised wording in the “Model”. Pat offered to make the changes and send the revised back out to WCC members Wednesday evening. (see attached revised NBAC Open Space Deed)

After a short discussion of concerns about subdivision boundaries being properly marked, Tom and George suggested a letter to the Planning Board requesting that a note be added to all subdivision plans that “all corners be set” This means it will be on the mylar as a permanent record. George said it should also be on the checklist.

7. Wetlands Violations

Tom noticed and reported 2 violations to the NHDES Wetlands Bureau:

DES Wetlands file # 2006-00686 - at 118 S. Sugar Hill Road. Map 403 Lot 202.

DES Wetlands file # 2006-00687 – at 279 S. Stark Highway.

8. Planning Board – discussion of the use of “transfer of property rights” as a land use tool.

Andy said Paul Morin has asked for WCC participation on June 22 in a discussion of additional tools that would direct development to areas in town that are best suited and away from areas that have been identified as having significant value to the town as undeveloped land. George described several scenarios involving transfer of property rights such as so called Sending and Receiving Zones where parts of town are developed instead of the parcel in an identified priority conservation area. Another approach, Density Buys allow a developer to increase the density of their subdivision in exchange for a donation to the Conservation Fund, or the purchase of an already identified parcel for conservation.

The WCC recognizes that a Natural Resources Inventory is critical if these techniques are to be used successfully. George recommends setting up a committee to work on the NRI. Andrea, George and Pat volunteered to meet to get things started. Andrea will email suggested meeting dates later.

George warned that the Planning Board is anxious to get going on these new techniques.

9. WCC By-Laws update for 2006

Members had reviewed the By-Laws and new amendments prior to the meeting and had little else to change. Tom made the motion to accept the By-Laws as amended. Andrea 2nd. All voted to adopt except George who abstained. Tom added that the revised date on the first page needs to be changed to June 6, 2006. (see attached By-Laws)

10. Administrative Support for the WCC

Andy has spoken to Naomi Bolton who does not want to add another evening meeting to her schedule but agreed to prepare minutes from tapes of the meetings. Tonight would be a trail run but she is out of town the rest of this week.

11. Website Updating

We have funds in the Conservation Commissions regular budget to develop our website along the lines of Amherst’s CC. Steve was the spearhead of this campaign. Andy will talk to Tina about updating the members list, minutes etc.

12. Owl

John asked about the transfer of the Owl from the WCC room to the Library where we believe it will be much safer. The Library is planning an event soon in which the owl has a role but the bird is still up in the WCC room. Andrea offered to talk to Library Director Chris Hague.

13. PWA Ferrin Pond Hike

Andy asked if we have heard anything from the PWA about what the WCC's role will be if any for the upcoming program that we agreed to co-sponsor. Pat offered to contact PWA and find out the plan.

Tom made the motion to adjourn. Andrea 2nd. All voted in favor. Meeting ended at 10:50 PM

Respectfully submitted,

Pat Myers
Temporary Recorder

Cc: Town Clerk
Tina Pelletier – website
BOS
WCC files